

*Generals*OLL 83-2143
16 September 1983MEMORANDUM FOR: Harry Fitzwater
Deputy Director for Administration

[redacted] STAT

Deputy Director of Personnel

[redacted] STAT

Director of Finance

[redacted] STAT

Chief, Compensation Division, O/F

FROM:

[redacted] STAT

Legislation Division, OLL

SUBJECT: H.R. 3871, Concerning Hourly
Rates of Pay for Federal Employees

1. Attached for your information and review is a copy of H.R. 3871 which was recently introduced by Representative Ford, (D., MI), Chairman, House Post Office and Civil Service Committee. As you can see, the bill has several co-sponsors. It has been referred to Chairman Ford's committee. The bill seeks to amend Section 310(b) of the Omnibus Reconciliation Act of 1982 (attached) to delay implementation of the adjustment in the hourly rate of pay for federal employees which is scheduled to take effect 1 October. This bill would not repeal that provision but add a new paragraph (4) to section 310(b) to delay the effective date of this adjustment until the effective date of any pay increase awarded federal employees under section 5305 of title 5. At this point in time, it appears that any pay increase for federal employees will not take effect until next January, which would have the effect of delaying any adjustment in the hourly rate until that time.

2. Chairman Ford hopes to bring this legislation up under suspension of the rules next Tuesday, 20 September. Given that the practical effect of the implementation of subsection 310(b) would be a pay cut for federal employees unless done at the same time a pay increase takes effect, this legislation stands a good chance of quick and favorable consideration by the House.

3. Also attached is a copy of Chairman Ford's introductory remarks on the bill, as well as additional remarks by Representative Vic Fazio of California. In addition, I am attaching Mike Causey's column on the issue from the 16 September Washington Post.

[redacted] STAT

Attachments

STAT

Distribution:

1 - [] Signer

1 - OLL Chrono

✓ 1 - LEG File: Personnel Issues Generals 98th

1 - []

OLL: [] (16 September 1983)

STAT

STAT

MIKE CAUSEY

THE FEDERAL DIARY

Congress May Postpone White-Collar Pay Cut

The upcoming October pay cut for white-collar federal workers may be put off until January, if Congress can get its act together within the next two weeks.

Just about everybody who is anybody, in Congress and the administration, thinks that it is dirty pool to give the feds a pay cut in October, when they normally get pay raises. They would like to delay the cut until employees get raises that will more than offset the cuts.

White-collar workers are scheduled to get raises of either 3.5 percent or 4 percent in January. This should add about \$40 to the biweekly paycheck of the typical employee.

Earlier this week Rep. Bill Ford (D-Mich.), chairman of the House Post Office and Civil Service Committee, introduced a bill that would defer the bookkeeping change Congress approved last year until January, when feds are due a regular pay raise. The bill is H.R. 3871.

Ford was joined by Rep. Gene Taylor, of Missouri, the committee's ranking Republican. Most other committee members are cosponsoring the bill.

On the Senate side, Ted Stevens of Alaska says that he will put the pay deferral language into the budget reconciliation package, unless the House bill can be approved sooner. The White House also has urged Congress to defer the pay cut until January.

The pending cut is the result of a money-saving proposal that Congress okayed last year. Designed to run for two years and save \$240 million, the short-changing would be accomplished by calculating employee pay rates on the basis of a 2,087-hour work year instead of the present 2,080-hour formula.

That seemingly innocent change would cost the average employee about \$3.20 per paycheck, and much more than that for top-paid employees.

If the pay cut delay is passed in time, the government would begin the new payroll system in January and return to the 2,080-hour formula in January 1986.

If Congress fails to act in time, the cuts will go into effect Oct. 1 and remain in force until October 1985.

Whenever it starts, federal officials say that the bookkeeping change will not have any impact on the way employees earn sick leave or annual leave, nor will it affect their service computation time for retirement purposes.

H 6810

CONGRESSIONAL RECORD — HOUSE

September 13, 1983

January 1, 1983, as the Tricentennial Anniversary Year of German Settlement in America, and urge all Americans to observe the year with appropriate ceremonies and activities.

In witness whereof, I have hereunto set my hand this 20th day of Jan., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan.

Mr. Speaker, on this occasion of commemorating the courage and heroism of Gen. Friedrich von Steuben, I send my greetings and best wishes to all German-Americans who reside in the 11th Congressional District of Illinois which I am honored to represent, and to German-Americans all over the Nation, who are paying tribute to this great American, and who are celebrating the many lasting contributions of men and women of German ancestry which have added to America's greatness, since the first German settlement in this country almost 300 years ago.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEGISLATION TO AMEND THE PERISHABLE — AGRICULTURAL COMMODITIES ACT —

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DE LA GARZA) is recognized for 5 minutes.

● Mr. DE LA GARZA. Mr. Speaker, I have introduced a bill today that would amend the Perishable Agricultural Commodities Act by imposing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of unpaid sellers.

The Perishable Agricultural Commodities Act was enacted in 1930 to encourage fair trading practices in the marketing of perishable commodities by prohibiting unfair and fraudulent business practices and providing for collecting damages from any buyer or seller who fails to live up to his contract obligations.

The act has generally worked well in making the marketing of perishable agricultural commodities more orderly and efficient. However, in recent years there has been a substantial increase in instances where commission merchants, dealers, or brokers have failed to pay for perishable agricultural commodities received by them or have been slow in making payment therefor.

Sellers of perishable agricultural commodities are often located thousands of miles from their customers. Sales transactions must be made quickly or they are not made at all. Many sales are consummated while

the commodities are en route to a particular destination. Under such conditions, credit checks, conditional sales agreements, and other traditional safeguards are not possible. Under present law, sellers of fresh fruits and vegetables are unsecured creditors and receive little protection in any suit for recovery of damages where a buyer has failed to make payment as required by the contract.

The bill as introduced would remedy this situation by impressing a trust in behalf of the unpaid seller on the inventories, commodities, or proceeds of sale of such commodities in the hands of the commission merchant, dealer, or broker in the same manner as has been provided by amendments to the Packers and Stockyards Act adopted in 1976.

I have provided below a brief analysis of the amendment.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would amend section 5 of the Perishable Agricultural Commodities Act as follows:

(1) It declares as a finding by Congress that a burden on commerce is caused by financing arrangements under which commission merchants, dealers, or brokers who have not made payment for perishable agricultural commodities purchased or handled by them in behalf of another person, encumber, or give lenders a security interest in such commodities, and that such arrangements are contrary to the public interest.

(2) It provides that perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories, receivables, or proceeds from such perishable agricultural commodities, shall be held by such handlers in trust for the benefit of all unpaid sellers or suppliers of such commodities until full payment is made. It further provides that payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. Transactions between an agricultural cooperative association and its members are exempted from these special provisions.

(3) It provides that the unpaid seller will lose the benefits of such trust unless such person (or agent) gives written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker and has filed such notice with the Secretary within 30 business days: (i) after expiration of the time by which payment must be made as prescribed in regulations issued by the Secretary, (ii) after expiration of such other time as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument presented for payment has been dishonored.

(4) It vests the United States district courts with jurisdiction on (a) actions by trust beneficiaries to enforce payment, and (b) actions by the Secretary to prevent and restrain dissipation of the trust.

Section 2 of the bill amends section 2(4) of the Act by defining as unfair conduct and an unlawful act, the failure of any commission merchant, dealer, or broker to maintain the trust for the benefit of the seller as required under section 5(c). A violation of section 4 would subject the person failing to maintain the trust to a reparations order for damages by the Secretary or to suspension or revocation of his license in accordance

with the administrative procedures set forth in the Act.

LEGISLATION TO AVOID OCTOBER PAY CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 10 minutes.

● Mr. FORD of Michigan. Mr. Speaker, I introduced today legislation which will delay the effective date of section 310(b) of the Omnibus Budget Reconciliation Act of 1982 until the effective date of the next Federal employee pay increase. This bill is supported by a majority of the members of the Committee on Post Office and Civil Service, and I hope the House will consider it next week. Unless this bill is enacted prior to October 1, hundreds of thousands of Federal employees will suffer an unintended and unexpected pay cut this October.

Section 310(b) was one of several provisions reluctantly accepted by the House conferees on the 1982 budget reconciliation bill. These provisions, which adversely affected Federal employees and retirees, were necessary to achieve the spending cuts required by the administration's economic program. Section 310(b), for example, was estimated to save \$120 million in fiscal year 1984. I should point out that although the House finally approved the conference report—it was rejected the first time it was considered—I and a majority of the members of the Committee on Post Office and Civil Service voted against it.

Section 310(b) requires a bookkeeping change in the way pay is computed for general schedule, white-collar, and most other annual rate Federal employees. In order to compute paychecks for these employees their annual salaries must be converted into hourly rates. Currently, this is done by dividing the annual salary by 2,080 hours—number of hours in 52 weeks of 40 hours each. In fact, however, each year there is a fraction of a week more than 52 weeks which means employees are being paid a little more than their stated annual rate in most calendar years. To save money, the Reconciliation Act requires that for fiscal years 1984 and 1985 the more mathematically accurate divisor of 2,087 hours should be used to compute hourly rates.

According to the Office of Personnel Management, use of the new divisor will mean pay cuts of \$3.20 to \$8.80 per pay period for affected employees. To minimize the impact on employees, the Reconciliation Act provides the new computation method will take effect with the pay periods beginning on or after October 1. This coincides with the traditional effective date for the annual Federal pay comparability adjustments. Thus, although the new divisor means a slight pay reduction, the comparability adjustment which

September 13, 1983

CONGRESSIONAL RECORD — HOUSE

H 6811

was expected to take effect at the same time would more than compensate for it, and employees take home pay would still increase.

The President has now formally proposed delaying the pay adjustment until next January and capping it at 3.5 percent. Congress may or may not go along with the President's plan. It earlier endorsed a 4-percent increase. But in the meantime affected employees will suffer a pay cut in 2 weeks as a result of the President's plan to delay the annual pay adjustment.

The bill I introduced will avoid an October pay cut. Specifically, it provides the new computation method will not take effect until the pay comparability adjustment also takes effect. Thus the reduction required by the new computation method will be more than offset by the pay comparability adjustment. ●

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 10 minutes.

[Ms. OAKAR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

RESOLUTION— CALLING ON TREASURY SECRETARY TO MAKE U.S. CURRENCY USABLE BY THE BLIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing a resolution which would express the sense of the Congress that the Secretary of the Treasury should develop a method for printing our national currency that makes the denomination of the currency identifiable to blind persons.

As my colleagues know, our paper currency is not understandable by the blind. All denominations are made in the same size and only the visible printing on the currency distinguishes one denomination from another. This is unlike many currencies around the world, which are printed in different sizes.

It should be clear that this situation puts blind people at a distinct disadvantage in everyday life on top of the obvious disadvantages they already face. In practically every exchange in a store, in a bank, or anywhere else that money is involved, they must rely on the honesty and accuracy of other individuals. In addition, the number of jobs that blind persons can hold is even further reduced by this problem, as they generally cannot perform any function which requires the counting of paper money.

As long as we can, without undue cost, alter our currency to enable the blind to identify the various denominations I believe it amounts to unfair discrimination not to make the necessary changes. The blind face more

than enough discrimination. This is a case where the Federal Government can eliminate one form of discrimination and help to make blind persons more independent and self-sufficient.

It is for these reasons that I am introducing my resolution today. I believe the Treasury Department has the capability to make the changes in our currency that can make individual bills identifiable to blind persons merely by touch. Various proposals have been suggested for changing our currency in this manner. These include cutting corners of bill, using special embossing, and assigning different sizes to the various denominations. It is not my intention to force the Treasury Department to adopt any particular idea; rather, I believe we should encourage the Department to study this issue and to come up with the most cost-effective approach, after consultation with appropriate individuals, businesses, and organizations and after appropriate experimentation.

Mr. Speaker, most of us take for granted our ability to take money out of our wallets, pay for an item, and receive and count our change. The blind in our society, who face so many handicaps, also must contend with the handicap of not being able to carry out these everyday functions without extreme difficulty. We can eliminate this handicap and I believe we should do it. I hope my colleagues feel the same way and will join me in sponsoring this resolution.

At this point in the RECORD, I would like to insert the text of my resolution:

H. CON. RES. 163

Concurrent resolution expressing the sense of the Congress that the Secretary of the Treasury should develop a method for printing currency in a manner which will make the denomination of such currency readily identifiable to an individual who is blind.

Resolved by the House of Representatives (the Senate concurring). That it is the sense of the Congress that the Secretary of the Treasury should develop a method for printing currency in a manner which will make the denomination of such currency readily identifiable to an individual who is blind. ●

THE STRATEGIC PETROLEUM — RESERVE —

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SHARP) is recognized for 5 minutes.

● Mr. SHARP. Mr. Speaker, today I am introducing a bill to improve the reliability and effectiveness of the strategic petroleum reserve. The bill is an amendment to the Energy Policy and Conservation Act and requires a test drawdown, distribution, and sale of a portion of the strategic petroleum reserve crude oil.

The strategic petroleum reserve was created to store substantial quantities of petroleum in order to diminish U.S. vulnerability to the effects of a severe energy supply interruption, or to carry

out obligations of the United States under the international energy program. The strategic petroleum reserve, with 353 million barrels of crude oil in storage, now represents a substantial deterrent against politically inspired disruptions of U.S. energy import. Yet the full advantage of this significant strategic reserve is unrealized.

On December 1, 1982, the Department of Energy submitted a report to Congress on their plan for the drawdown and distribution of the strategic petroleum reserve. Speaking for myself and a number of my colleagues, we are disappointed that this report did not sufficiently detail how this strategic resource would be utilized under a severe disruption of U.S. energy supplies. However, the problem is larger than the general inadequacy of the report.

Historically, concerns about SPR crude oil quality and drawdown capability have undermined the effectiveness of the SPR as a stabilizing factor on the oil market. Indeed, the public confidence that the strategic petroleum reserve was, in part, designed to provide has suffered from those same concerns. A required test drawdown, distribution, and sale of a small amount of the strategic petroleum reserve crude oil will serve to quiet these concerns.

Department of Energy officials have stated the need to test the Government procurement system for the sale of crude oil. Though the Government procures oil for the SPR, it has no experience selling oil, nor have the paperwork and procedures been tested and subjected to legal scrutiny in market conditions. The SPR with over 350 million barrels of oil is now the largest U.S. stockpile and potentially the largest source of crude oil sales during an emergency. A drawdown such as I am proposing would give the Department this experience and better prepare the Government and industry in the event of an actual major oil supply interruption. Finally, a SPR drawdown would test both system logistic capabilities and market value for the diverse crude oil types stored in the SPR salt domes.

In hearings before the Subcommittee on Fossil and Synthetic Fuels, the Secretary of Energy indicated a test sale of SPR crude oil would be an effective way to help prepare the SPR for its ultimate use in offsetting a serious oil supply interruption. At that time the Secretary expressed some concerns about the administrative costs and the almost certain prospect of having to repurchase displaced supplies at higher costs. Staff estimates the cost of such a test to be between \$5 and \$10 million. While not insignificant, this is a modest price to pay to test the multibillion-dollar reserve and provide public assurance of its viability in a time of national crisis.

During these same hearings the Department of Energy argued that cur-

"(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the employee or Member with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of this title during the period—

5 USC 5301.

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired employee or Member, the date the employee's or Member's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds."

"Pay."

(b) The amendment made by subsection (a) of this section shall not cause any annuity to be reduced below the rate that is payable on the date of the enactment of this Act, but shall apply to any adjustment occurring on or after such date of enactment under section 8340 of title 5, United States Code, to any annuity payable from the Civil Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of enactment of this Act.

5 USC 8340 note.

FEDERAL EMPLOYEE PAY ADJUSTMENTS

SEC. 310. (a)(1) Notwithstanding any other provision of law, if—

5 USC 5305 note.

(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305(c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

Effective date.

→ (b)(1) Notwithstanding any other provision of law, effective with respect to fiscal years 1984 and 1985, and applicable in the case of an employee under the General Schedule, any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

5 USC 5504 note.

(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

5 USC 8331.

(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

98TH CONGRESS
1ST SESSION

H. R. 3871

To amend the Omnibus Budget Reconciliation Act of 1982 to provide that the figure used in determining hourly rates of pay for Federal employees not be changed before the comparability adjustment in the rates of pay for such employees has been made for fiscal year 1984.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 1983

Mr. FORD of Michigan (for himself, Mr. UDALL, Mr. CLAY, Mrs. SCHROEDER, Mr. GARCIA, Mr. LELAND, Mr. ALBOSTA, Ms. OAKAR, Mrs. HALL of Indiana, Mr. SIKORSKI, Mr. DASCHLE, Mr. DE LUGO, Mr. SCHUMER, Mr. TAYLOR, Mr. GILMAN, Mr. CORCORAN, Mr. COURTER, Mr. WOLF, Mr. FAZIO, Mr. HOYER, Mr. BARNES, Mr. HEFTTEL of Hawaii, Mr. DYMALLY, Mr. WON PAT, Mr. STARK, Mr. LANTOS, Mr. DICKS, Mr. FAUNTROY, Mr. ROE, Mr. SWIFT, Mr. FRANK, Mr. HOWARD, Mr. DWYER of New Jersey, Mrs. BOXER, Mrs. COLLINS, Mr. FOGLIETTA, Mr. LEHMAN of California, Mr. AKAKA, Mr. DYSON, Mr. WEISS, Mr. COELHO, and Mr. BORSKI) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend the Omnibus Budget Reconciliation Act of 1982 to provide that the figure used in determining hourly rates of pay for Federal employees not be changed before the comparability adjustment in the rates of pay for such employees has been made for fiscal year 1984.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 310(b) of the Omnibus Budget Reconciliation

1 Act of 1982 is amended by adding at the end thereof the
2 following new paragraph:

3 “(4) Notwithstanding any other provision of this subsec-
4 tion, paragraph (1) shall not be effective with respect to pay
5 periods beginning before the effective date of any increase
6 under section 5305 of title 5, United States Code, in the
7 rates of pay under the General Schedule and the rates of pay
8 under the other statutory pay systems for fiscal year 1984.”.

9 SEC. 2. The amendment made by this Act shall be effec-
10 tive as of October 1, 1983.

○